

EXHIBIT F

REDACTED



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)
et al.,)
Plaintiffs,)
vs.) Case No.
GOOGLE, LLC,) 1:23-cv-00108-LMB-JFA
Defendant.)

HIGHLY CONFIDENTIAL
REMOTE VIDEOTAPED DEPOSITION OF
JOHN GENTRY
THURSDAY, OCTOBER 26, 2023

Reported in Stenotype by:
Cody R. Knacke, RPR, CSR No. 13691
Job No.: 916483

Page 6			Page 8		
1	I - N - D - E - X		1	First question, Mr. Gentry: Can you say	
2	(Continued)		2	and spell your name for the record.	
3	E - X - H - I - B - I - T - S		3	A. Sure. John David Gentry. J-O-H-N	
4	DEFENDANT'S DESCRIPTION	PAGE	4	D-A-V-I-D G-E-N-T-R-Y.	
5	Exhibit 18 Presentation "Budget Meeting	226	5	Q. Okay. Let me really quickly go over a few	
6	Follow Ups January 2019,"		6	guidelines for the deposition.	
7	Bates Nos. OPENX-00001645 to		7	The first guideline: Since there's a court	
8	1676		8	reporter here transcribing what we say, please do	
9	Exhibit 19 Presentation "The Operating	229	9	your best to answer audibly as opposed to with	
10	Playbook," Bates Nos.		10	gestures, which I am doing right now, or, you know,	
11	OPENX-0000682 to 719		11	"uh-huh" or "um" or that kind of thing. That'll	
12	Exhibit 20 E-mail correspondence dated	232	12	make the record clear.	
13	12/6/2013, Bates Nos.		13	Does that make sense?	
14	OPENX-00013598 to 13600		14	A. Yes.	
15	Exhibit 21 Presentation "Company Meeting	240	15	Q. Second, please do your best to let me	
16	January 2017," Bates Nos.		16	finish my question before you start your answer,	
17	OPENX-00000611 to 630		17	even if you know where I'm going.	
18	Exhibit 22 Presentation "Neil-OpenX	266	18	And on my end, I'll do my best to let you	
19	Discussion," Bates Nos.		19	finish your answer before I start another question.	
20	OPENX-00001018 to 1049		20	Does that make sense?	
21	QUESTIONS INSTRUCTED NOT TO ANSWER		21	A. Yes.	
22	PAGE LINE		22	Q. And then the last guideline: In terms of	
23	134 13		23	breaks, we'll probably plan to take a break about	
24	INFORMATION REQUESTED		24	once an hour. But if you need a break at a	
25	None.		25	different time, just let me know, and we can	
Page 7			Page 9		
1	THURSDAY, OCTOBER 26, 2023		1	accommodate that.	
2	8:59 A.M.		2	Does that make sense?	
3	THE VIDEOGRAPHER: Okay. Good morning,		3	A. Yes.	
4	everyone. We are now on the record.		4	Q. A few more things. For all of my	
5	My name is Gabriela Alvarez. I am the		5	questions, unless I say otherwise, I'd like you to	
6	videographer representing Lexitas.		6	answer based on your personal knowledge only.	
7	This video deposition is for the		7	Does that make sense?	
8	United States District Court for the Eastern		8	A. Yes.	
9	District of Virginia.		9	Q. So for my questions, unless I say	
10	Today's date is October 26, 2023, and the		10	otherwise, I'm not asking you about information you	
11	time is 8:59 a.m. Pacific time.		11	learned during your preparation for the deposition	
12	This deposition is being held remotely in		12	that relates to something that someone else at OpenX	
13	the matter of the United States of America, et al.,		13	knows but that you do not have personal knowledge	
14	versus Google LLC, Case Number 1:23-cv-00108.		14	of.	
15	The deponent today is Mr. John Gentry.		15	Does that make sense?	
16	All counsel will be noted in the		16	A. Yes.	
17	stenographic record.		17	Q. If at any point you feel like you have	
18	And the court reporter today is		18	information that is within the knowledge of OpenX	
19	Cody Knacke. He will now swear in the witness.		19	but not your personal knowledge that's responsive to	
20	JOHN GENTRY,		20	one of the questions that I asked, please say that,	
21	called as a witness, having been first duly sworn,		21	and we'll take it from there.	
22	testified as follows:		22	Does that make sense?	
23	EXAMINATION		23	A. Mostly.	
24	BY MR. VERNON:		24	Do you have an example of just what that	
25	Q. Good morning, Mr. Gentry, and everybody.		25	would be?	

Page 10	Page 12
<p>1 Q. Yeah, just if I ask you a question and you</p> <p>2 realize that you learned something in preparation</p> <p>3 for your deposition that really isn't based on your</p> <p>4 own personal experience but instead it's based on</p> <p>5 someone else at OpenX's knowledge and you feel that</p> <p>6 it's responsive to my question, then just say -- you</p> <p>7 know, describe what I've just said. Say it's within</p> <p>8 someone else's knowledge.</p> <p>9 A. Okay.</p> <p>10 Q. And we'll kind of take it from there.</p> <p>11 Does that make sense?</p> <p>12 A. Yeah.</p> <p>13 Q. Do you understand that the information you</p> <p>14 provide during this deposition may be used by the</p> <p>15 Department of Justice in other civil, criminal,</p> <p>16 administrative, or regulatory cases or proceedings?</p> <p>17 A. Yes.</p> <p>18 Q. Let me ask you about your background.</p> <p>19 Where were you born and raised?</p> <p>20 A. I was born in Los Angeles, California, and</p> <p>21 I grew up in Palos Verdes, California, Palos Verdes</p> <p>22 Estates.</p> <p>23 Q. Can you describe your educational</p> <p>24 background?</p> <p>25 A. Sure. High school here in the local</p>	<p>1 that allow them to bid on behalf of advertisers to</p> <p>2 place an advertisement in that space.</p> <p>3 Q. Okay. As CEO of OpenX, what are your main</p> <p>4 responsibilities?</p> <p>5 A. My main responsibilities are for everything</p> <p>6 at the company. You know, the classic CEO</p> <p>7 responsibilities would be strategy, funding, people,</p> <p>8 culture.</p> <p>9 Q. And can you describe sort of your</p> <p>10 background at OpenX, meaning the other positions you</p> <p>11 held prior to becoming CEO?</p> <p>12 A. Sure. I joined OpenX originally as a</p> <p>13 consultant in early 2012. I believe it was either</p> <p>14 February or March. I became full-time in</p> <p>15 September 1st of 2013 as president of the company.</p> <p>16 I had responsibility for everything other than</p> <p>17 finance, legal, HR, comms.</p> <p>18 And then I became the CEO of the company in</p> <p>19 February of 2020.</p> <p>20 Q. I'd like to ask you some questions about</p> <p>21 the publisher ad service business.</p> <p>22 Is that okay?</p> <p>23 A. Sure.</p> <p>24 Q. What was OpenX's first product?</p> <p>25 A. First product was an ad server.</p>
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<p>1 community, Palos Verdes Estates. I went to college</p> <p>2 for two years at UC Santa Barbara, two years at</p> <p>3 UCLA. Graduated from UCLA. And then I got my</p> <p>4 master's in business from the Kellogg School at</p> <p>5 Northwestern.</p> <p>6 Q. And you are the CEO of OpenX; is that</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. Can you briefly describe, at a high level,</p> <p>10 what OpenX is.</p> <p>11 A. OpenX is a global ad exchange, would be the</p> <p>12 simple description of it.</p> <p>13 Q. And what is an ad exchange, just at a high</p> <p>14 level?</p> <p>15 A. Okay. So what we do is we support</p> <p>16 publishers and their ability to sell their</p> <p>17 inventory. We do that by aggregating publisher</p> <p>18 demand from across thousands of publishers. They</p> <p>19 will send ad requests to us when a given page on</p> <p>20 their website or app opened, also potentially in a</p> <p>21 CTV app as well.</p> <p>22 At that point, we will then take those ad</p> <p>23 requests and submit those through and federate those</p> <p>24 out to a lot of what we call DSPs, demand-side</p> <p>25 partners, who also have technology and algorithms</p>	<p>1 Originally, it was an open source ad server when the</p> <p>2 company was founded before I was there, and then</p> <p>3 they took that with the intention of turning it into</p> <p>4 a for-pay ad server and run a, you know, for-pay ad</p> <p>5 server into the marketplace. Again, before I was</p> <p>6 there.</p> <p>7 Q. Does OpenX still operate a publisher ad</p> <p>8 server today?</p> <p>9 A. No, we don't.</p> <p>10 Q. And just roughly, when did OpenX stop</p> <p>11 operating a publisher ad server?</p> <p>12 A. I think we started winding it down and</p> <p>13 recognizing the essential challenges as early as</p> <p>14 2015. I believe we wound it down in 2018, 2019.</p> <p>15 There was kind of a piece-by-piece process to that.</p> <p>16 Q. When OpenX competed in the publisher ad</p> <p>17 server business, which company had the largest</p> <p>18 publisher ad server?</p> <p>19 A. Google.</p> <p>20 Q. And what was Google's publisher ad server</p> <p>21 known as?</p> <p>22 A. DFP, DoubleClick for Publishers.</p> <p>23 Q. If a publisher used a publisher ad server</p> <p>24 other than Google's DFP, how much access did they</p> <p>25 have to AdX?</p>

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<p>1 MS. LEE: Objection. Form.</p> <p>2 THE WITNESS: Sorry.</p> <p>3 BY MR. VERNON:</p> <p>4 Q. Can you just repeat your answer?</p> <p>5 A. Zero. We did not have access to AdX.</p> <p>6 Q. And I think I should back up.</p> <p>7 What is AdX?</p> <p>8 A. AdX is the SSP, or supply-side platform --</p> <p>9 which is what we are -- that Google owns, is</p> <p>10 connected to what today is called GAM, which is the</p> <p>11 Google ad server product, which was formerly DFP.</p> <p>12 Q. How, if at all, did the fact that the</p> <p>13 publishers have zero access to AdX if they did not</p> <p>14 use DFP as their publisher ad server affect OpenX's</p> <p>15 ability to compete with DFP in the publisher ad</p> <p>16 server business?</p> <p>17 MS. LEE: Objection to form.</p> <p>18 BY MR. VERNON:</p> <p>19 Q. Go ahead.</p> <p>20 A. Sorry. If I can speak. I don't know -- am</p> <p>21 I allowed to --</p> <p>22 Q. Oh, yeah. Okay.</p> <p>23 So if a lawyer objects, just pause for a</p> <p>24 second, let them make their objection, and then you</p> <p>25 can go ahead and answer.</p>	<p>1 much lower amount of potential revenue that they</p> <p>2 could acquire and, as a result, much less</p> <p>3 monetization. So it was economically an unwise</p> <p>4 choice for them to choose to go with someone that</p> <p>5 did not have access to the largest pool of demand.</p> <p>6 Q. How successful, if at all, was OpenX at</p> <p>7 convincing publishers to switch from DFP as their</p> <p>8 publisher ad server to OpenX as their publisher ad</p> <p>9 server?</p> <p>10 A. Personal knowledge --</p> <p>11 MS. LEE: Objection to form.</p> <p>12 THE WITNESS: My personal knowledge is that</p> <p>13 I don't think we ever managed to switch somebody</p> <p>14 over. We often -- we often switched from other ad</p> <p>15 servers but not from DFP.</p> <p>16 BY MR. VERNON:</p> <p>17 Q. So what's your understanding of why OpenX</p> <p>18 was, to your knowledge, unable to convince</p> <p>19 publishers to switch from Google's DFP to OpenX's ad</p> <p>20 server?</p> <p>21 MS. LEE: Objection to form.</p> <p>22 THE WITNESS: Because we did not have the</p> <p>23 access to AdX that we could offer a somewhat</p> <p>24 competitive similar offering to DFP.</p> <p>25 ///</p>
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<p>1 The only difference is if a lawyer</p> <p>2 instructs you not to answer, which probably would be</p> <p>3 your lawyer if it happens, that's a different thing,</p> <p>4 and we will deal with that if that happens.</p> <p>5 Does that make sense?</p> <p>6 A. Yeah, no problem.</p> <p>7 Q. Let me just -- to make it clear, I'll</p> <p>8 repeat my question.</p> <p>9 A. That'd be great.</p> <p>10 Q. How, if at all, did the fact that</p> <p>11 publishers had zero access to AdX if they did not</p> <p>12 use Google's DFP as their publisher ad server affect</p> <p>13 OpenX's ability to compete with DFP in the publisher</p> <p>14 ad server business?</p> <p>15 MS. LEE: Object to form.</p> <p>16 THE WITNESS: It prevented our ability to</p> <p>17 compete in the publisher ad server business over</p> <p>18 time.</p> <p>19 BY MR. VERNON:</p> <p>20 Q. What do you mean by that?</p> <p>21 A. Fundamentally, the inability for OpenX to</p> <p>22 offer an ad server that could access the largest</p> <p>23 source of advertiser demand in the Internet, which</p> <p>24 was represented by AdX, imagine if a publisher went</p> <p>25 with the OpenX ad server, they were going to have a</p>	<p>1 BY MR. VERNON:</p> <p>2 Q. What was the main reason that OpenX exited</p> <p>3 the publisher ad server business?</p> <p>4 A. The main reason was because we could not</p> <p>5 get access. As an asset, we could not get access to</p> <p>6 AdX demand.</p> <p>7 Q. What impact, if any, is there on</p> <p>8 competition in the publisher ad server business from</p> <p>9 the fact that publishers cannot access AdX demand</p> <p>10 unless they use DFP as their publisher ad server?</p> <p>11 MS. LEE: Objection to form.</p> <p>12 THE WITNESS: You cannot compete as an ad</p> <p>13 server if you do not have the ability to access a</p> <p>14 similar amount of demand as your competition.</p> <p>15 BY MR. VERNON:</p> <p>16 Q. How would you characterize Google's</p> <p>17 position in the display publisher ad server</p> <p>18 business?</p> <p>19 MS. LEE: Objection to form.</p> <p>20 THE WITNESS: Dominant, I think at this</p> <p>21 point, 90 percent-plus share.</p> <p>22 BY MR. VERNON:</p> <p>23 Q. And what's the main reason why Google has a</p> <p>24 dominant position in the publisher ad server</p> <p>25 business for display?</p>

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1 MS. LEE: Objection to form.
2 THE WITNESS: Because of the fact that
3 they've got access, sole access to the massive
4 amounts of demand represented by AdX which is a
5 combination of the Google Ads ad network -- Google
6 Ads network, and also the DV360 demand.
7 BY MR. VERNON:
8 Q. Why, if at all, is accessing AdX demand
9 important to publishers?
10 MS. LEE: Objection to form.
11 THE WITNESS: Publishers, you know,
12 prioritize -- their goal with an ad server and with
13 their ad business is to drive as much revenue as
14 possible to be able to fund investments in their
15 properties, so they have to drive the most revenue
16 they can.
17 When one ad server represents far and away
18 the best opportunity for monetization or revenue,
19 they are going to choose that ad server.
20 BY MR. VERNON:
21 Q. In your experience, are publishers
22 realistically able to switch away from Google's DFP
23 for publisher ad serving?
24 MS. LEE: Objection to form.
25 THE WITNESS: I'm not aware of any

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1 the fifth largest or tenth largest exchange for
2 display?

3 MS. LEE: Object to form.

4 THE WITNESS: Somewhere in the fourth to
5 possibly sixth, I would guess that's -- you know,
6 without knowing competitor information and some of
7 the independents, I guess we're in that zone.

8 BY MR. VERNON:

9 Q. Okay. In the 2016 to 2017 time frame --
10 well actually, let me back up.

11 What is a DSP?

12 A. A DSP is a demand-side platform. It is a
13 company designed to enable advertisers to bid across
14 a variety of inventory sources or supply sources.
15 All typically digital.

16 Q. And is it fair to say that DSPs bid on
17 OpenX's exchange?

18 A. Yes.

19 Q. In the 2016 to 2017 time frame, which DSP
20 was the largest buyer on OpenX's exchange?

21 A. DV360, Google.

22 Q. And what is DV360?

23 A. DV360 is Google's demand-side platform.

24 Q. How, if at all, did Google's DV360's
25 spending on the OpenX's exchange change over time?

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1 publisher, and certainly that I can think of in my
2 personal knowledge, that has switched away from DFP
3 or what is now known as GAM.

4 BY MR. VERNON:

5 Q. Okay. Let me ask you some questions about
6 a different topic, OpenX's exchange and spending
7 from DV360.

8 Is that okay?

9 A. Yes.

10 Q. First question: What is OpenX's main
11 business today?

12 A. Our main business is our -- what we call
13 our exchange business, also called at times the
14 supply-side platform.

15 Q. And how does OpenX's exchange compare with
16 other exchanges just in terms of size?

17 A. Depends on the exchanges you're comparing
18 us to. If you're comparing us to public market
19 competitors, PubMatic's about -- in terms of
20 revenue, PubMatic's about two and a half times as
21 large as us, Magnite's about six times as large as
22 us following several acquisitions, and then AdX is
23 far larger than us, but I don't know their numbers.

24 Q. Sort of ballpark, where does OpenX's
25 exchange fall in terms of is it the first largest or

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1 MS. LEE: Objection to form. Foundation.
2 THE WITNESS: Is there a specific time
3 period that you're...
4 BY MR. VERNON:
5 Q. Sure.
6 So in approximately 2018 or 2019, how, if
7 at all, did Google's DV360 spending on OpenX's
8 exchange change over time?
9 MS. LEE: Objection to form.
10 THE WITNESS: Google had been a strong
11 partner of ours since the early days of the company.
12 In 2018, really the second half of the year, we saw
13 a massive drop in DV360 spend on OpenX.
14 BY MR. VERNON:
15 Q. How, if at all, did the decrease in
16 spending by DV360 on OpenX affect OpenX?
17 MS. LEE: Objection to form.

[REDACTED]

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1 the drop began, we asked them many, many times as to
2 why the drop had occurred. You know, this was --
3 this was a normal course of business to ask them
4 about what was going on with spend, as we do with
5 all of our DSP partners.

6 We were told that everything looked normal,
7 there was no problem on their end, their systems
8 were all normal, which made us, at the time, assume
9 that we had something wrong, but we had no idea what
10 was going on.

11 BY MR. VERNON:

12 Q. Do you feel that Google gave OpenX an
13 honest answer as to why DV360's spending on OpenX
14 went down?

15 MS. LEE: Objection to form.

16 THE WITNESS: No.

17 BY MR. VERNON:

18 Q. Why do you say that?

19 A. Well, just from the complaint, reading the
20 complaint and learning there was a project named
21 Poirot that appeared designed to target specific
22 exchanges and lower the spend on those exchanges.
23 That was a new piece of information to us.

24 Q. In the display exchange business, what
25 display exchange is the largest?

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1 MS. LEE: Objection to form.

2 THE WITNESS: The largest exchange in the
3 display business is AdX.

4 BY MR. VERNON:

5 Q. And AdX is Google's exchange; is that fair?

6 A. That is true, yes.

7 Q. So Google has both the largest display
8 exchange and one of the largest DSPs; is that fair?

9 A. Yes, that's fair.

10 MS. LEE: Objection to form.

11 BY MR. VERNON:

12 Q. How easy or difficult is it for OpenX to
13 compete against Google's AdX given that Google is
14 also one of the largest buyers on OpenX's exchange?

15 MS. LEE: Objection to form.

16 THE WITNESS: Honestly, when we look at our
17 competitive set, we would like to be able to compete
18 with Google, but Google's really in a class of its
19 own, given its end-to-end control from the DSP side
20 with DV360 to AdX to control of the ad server.

21 So -- well, technically, as an SSP to
22 compete with AdX, I cannot think of a time when we
23 successfully changed things with AdX that much,
24 other than the introduction of header bidding.

25 But in general, we look at our competitive

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1 set -- the people we're trying to take share from
2 day in and day out are often the PubMatics or
3 Magnites of the world.

4 BY MR. VERNON:

5 Q. At one point you referred to Google having
6 end-to-end control of DV360 from AdX to the ad
7 server.

8 What did you mean by that?

9 MS. LEE: Objection to form.

10 THE WITNESS: They'll take an advertiser's
11 dollar from DV360 -- and that could be a dollar
12 that's from DV360 acting as a DSP or from the Google
13 ad network running through DV360 -- they will funnel
14 those dollars through AdX. And then because they
15 own the ad server, they have the ability to deeply
16 understand exactly what is happening, which bids are
17 winning, and what the rules are of a publisher ad
18 server that determines how the revenue flows into a
19 publisher's ad server.

20 BY MR. VERNON:

21 Q. Understood.

22 Let me ask you some questions about price
23 floors and Google's unified pricing rules. Is that
24 okay?

25 A. Sure.

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1 Q. In the context of display advertising, what
2 is a price floor?

3 A. A price floor is a floor set typically set
4 by a publisher that gets passed along through an SSP
5 or ad exchange to a DSP that's establishing the
6 minimum price their publisher's asking -- expecting
7 to be paid for that unit of inventory that they are
8 offering.

9 Q. Prior to Google's unified pricing rules, to
10 what extent did publishers set different price
11 floors for different exchanges?

12 MS. LEE: Objection to form.

13 THE WITNESS: It varies by publisher, but
14 it was common practice for publishers to set a
15 different floor for Google than they would set for
16 perhaps the independent exchanges.

17 BY MR. VERNON:

18 Q. And prior to Google's uniform pricing
19 rules, why did publishers set a different price
20 floor for Google than for the other exchanges?

21 MS. LEE: Objection to form.

22 THE WITNESS: There was a couple different
23 reasons. I think that the two biggest ones that I'm
24 aware of: One, publishers that were aware that with
25 the amount of demand that Google had being so much

<p style="text-align: right;">Page 30</p> <p>1 larger than the various independent exchanges, that</p> <p>2 Google had a higher probability that they could pay</p> <p>3 more for a given piece of inventory than one of the</p> <p>4 independent exchanges.</p> <p>5 So, as a result, they wanted to send Google</p> <p>6 a higher floor with the knowledge that Google could</p> <p>7 likely pay that and had the demand to pay that.</p> <p>8 The second reason publishers expressed to</p> <p>9 me when talking about this was they liked the idea</p> <p>10 of trying to diversify their revenue. And if Google</p> <p>11 did not pay the higher floor, then they, you know,</p> <p>12 had less revenue coming in from Google and more</p> <p>13 coming in from independent exchanges.</p> <p>14 BY MR. VERNON:</p> <p>15 Q. And why would a publisher want to manage</p> <p>16 their price floors to have less revenue from Google</p> <p>17 and more revenue from other exchanges?</p> <p>18 MS. LEE: Objection to form.</p> <p>19 THE WITNESS: Most publishers would express</p> <p>20 to me that they were concerned about the reliance on</p> <p>21 Google revenue and the significant amount of</p> <p>22 Google -- significant percentage of revenue that</p> <p>23 Google represented of their total.</p> <p>24 BY MR. VERNON:</p> <p>25 Q. How, if at all, did Google's unified</p>	<p style="text-align: right;">Page 32</p> <p>1 has any realistic opportunity or would think</p> <p>2 necessarily about switching off of Google's ad</p> <p>3 server.</p> <p>4 So with that being the case, they could</p> <p>5 make, really, whatever changes they want to make</p> <p>6 despite the fact that, you know, a publisher might</p> <p>7 not like it.</p> <p>8 BY MR. VERNON:</p> <p>9 Q. Fair to say that prior to Google's uniform</p> <p>10 price rules, publishers could try to give AdX a</p> <p>11 higher floor to shift transactions from AdX to other</p> <p>12 exchanges? Is that fair?</p> <p>13 MS. LEE: Objection to form.</p> <p>14 THE WITNESS: Yes. And --</p> <p>15 BY MR. VERNON:</p> <p>16 Q. And shift -- sorry. Go ahead.</p> <p>17 A. No, that's fine. That's fine.</p> <p>18 The answer's "Yes."</p> <p>19 Q. Shifting transactions from AdX to other</p> <p>20 exchanges could potentially make the exchange market</p> <p>21 more competitive. Is that fair?</p> <p>22 A. Yes.</p> <p>23 MS. LEE: Objection to form.</p> <p>24 BY MR. VERNON:</p> <p>25 Q. So what effect, if any, does Google's</p>
<p style="text-align: right;">Page 31</p> <p>1 pricing rules affect publishers' ability to set a</p> <p>2 higher price floor for AdX than for other exchanges?</p> <p>3 MS. LEE: Objection to form.</p> <p>4 THE WITNESS: My understanding of unified</p> <p>5 pricing rules is that what Google did was basically</p> <p>6 establish that a publisher could not set</p> <p>7 differential floors across their inventory.</p> <p>8 BY MR. VERNON:</p> <p>9 Q. Was Google taking away publishers' ability</p> <p>10 to set different floors for different exchanges,</p> <p>11 good or bad, for publishers?</p> <p>12 MS. LEE: Objection to form.</p> <p>13 THE WITNESS: That was a negative to</p> <p>14 publishers. Publishers were unhappy about that and</p> <p>15 felt it lowered their degree of control over how</p> <p>16 they ran their -- their advertising business.</p> <p>17 BY MR. VERNON:</p> <p>18 Q. Why is Google able to control how</p> <p>19 publishers run this part of their business?</p> <p>20 MS. LEE: Objection to form.</p> <p>21 THE WITNESS: Two reasons: One is that</p> <p>22 they own and control the ad server. So they decide</p> <p>23 the product roadmap for the ad server.</p> <p>24 The second is, is that they have such a</p> <p>25 dominant position that no publisher, at this point,</p>	<p style="text-align: right;">Page 33</p> <p>1 taking away publishers' ability to set higher price</p> <p>2 floors for AdX have on the level of competition in</p> <p>3 the exchange business?</p> <p>4 MS. LEE: Objection to form.</p> <p>5 THE WITNESS: It reduces the level of</p> <p>6 competition in the exchange business by reducing the</p> <p>7 opportunity for non-Google SSPs to capture</p> <p>8 publisher -- capture delivery demand of publishers.</p> <p>9 BY MR. VERNON:</p> <p>10 Q. Let me shift topics again and ask you about</p> <p>11 last look. Is that okay?</p> <p>12 A. Yes.</p> <p>13 Q. In the context of display advertising, what</p> <p>14 does "last look" mean?</p> <p>15 A. Last look was the ability of the -- of</p> <p>16 Google to see the bids that are brought into the ad</p> <p>17 server and, with last look, decide whether they</p> <p>18 wanted to place another bid of their own after</p> <p>19 seeing the bids of the competition.</p> <p>20 Q. How, if at all, did Google's last look</p> <p>21 affect OpenX's ability to compete in the display</p> <p>22 exchange business?</p> <p>23 MS. LEE: Objection to form.</p> <p>24 THE WITNESS: It was -- it was not an even</p> <p>25 playing field. Because we could place a bid, and</p>

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<p>1 that any of us had a higher bid.</p> <p>2 BY MR. VERNON:</p> <p>3 Q. And first look -- AdX's first look would</p> <p>4 also mean that the advertiser that values the</p> <p>5 impression the most might not acquire the</p> <p>6 impression; is that fair?</p> <p>7 MS. LEE: Objection to form.</p> <p>8 THE WITNESS: Yes, that's fair.</p> <p>9 BY MR. VERNON:</p> <p>10 Q. So is AdX's first look good or bad for</p> <p>11 publishers?</p> <p>12 MS. LEE: Objection to form.</p> <p>13 THE WITNESS: Bad, in my opinion.</p> <p>14 BY MR. VERNON:</p> <p>15 Q. And why, in your opinion, is AdX's first</p> <p>16 look bad for publishers?</p> <p>17 MS. LEE: Objection to form.</p> <p>18 THE WITNESS: Because it does not enable</p> <p>19 realtime competition from a variety of sources</p> <p>20 allowing a publisher to get the highest bid --</p> <p>21 possible bid for their inventory.</p> <p>22 BY MR. VERNON:</p> <p>23 Q. Apologies if this is a little repetitive.</p> <p>24 What impact, if any, did AdX's first look</p> <p>25 have on publishers' ability to get the highest</p>	<p>1 highest valuation of an impression actually won that</p> <p>2 impression?</p> <p>3 MS. LEE: Objection to form.</p> <p>4 THE WITNESS: It would limit advertisers</p> <p>5 that existed outside of the -- that were not bidding</p> <p>6 through AdX that could have had the highest value</p> <p>7 bid from winning those impressions.</p> <p>8 BY MR. VERNON:</p> <p>9 Q. Okay. Let me ask you a few questions about</p> <p>10 AdX's position in the display exchange business.</p> <p>11 Is that okay?</p> <p>12 A. Yes.</p> <p>13 Q. How would you characterize AdX's position</p> <p>14 in the display exchange business?</p> <p>15 MS. LEE: Objection to form.</p> <p>16 THE WITNESS: Dominant.</p> <p>17 BY MR. VERNON:</p> <p>18 Q. And why do you say that AdX is dominant in</p> <p>19 the display exchange business?</p> <p>20 A. Because it is the delivery point for the</p> <p>21 largest source of demand in the display business.</p> <p>22 Q. Have you ever seen any publishers stop</p> <p>23 using AdX?</p> <p>24 MS. LEE: Objection to form.</p> <p>25 THE WITNESS: No.</p>
Page 39	Page 41
<p>1 amount of revenue for their impressions?</p> <p>2 MS. LEE: Objection to form.</p> <p>3 THE WITNESS: Because AdX could transact in</p> <p>4 what is a noncompetitive dynamic, that resulted in a</p> <p>5 publisher not receiving the highest possible bid for</p> <p>6 their inventory.</p> <p>7 BY MR. VERNON:</p> <p>8 Q. In your opinion was AdX's first look good</p> <p>9 or bad for advertisers?</p> <p>10 MS. LEE: Objection to form.</p> <p>11 THE WITNESS: I think it was bad for</p> <p>12 advertisers.</p> <p>13 BY MR. VERNON:</p> <p>14 Q. And why do you think that AdX's first look</p> <p>15 was bad for advertisers?</p> <p>16 MS. LEE: Objection to form.</p> <p>17 THE WITNESS: Because it created a single</p> <p>18 channel by which an advertiser could access a</p> <p>19 publisher's inventory. And you could have an</p> <p>20 advertiser that wanted to work with a different</p> <p>21 exchange that did not have the ability to compete</p> <p>22 with their bid on an equal basis with the AdX bid.</p> <p>23 BY MR. VERNON:</p> <p>24 Q. What impact, if any, did AdX's first look</p> <p>25 have on the extent to which the advertisers with the</p>	<p>1 BY MR. VERNON:</p> <p>2 Q. Why, as far as you have seen, do publishers</p> <p>3 not stop using AdX?</p> <p>4 A. Because --</p> <p>5 MS. LEE: Objection to form.</p> <p>6 THE WITNESS: Because it is the delivery</p> <p>7 point for the largest source of demand for display</p> <p>8 advertising.</p> <p>9 BY MR. VERNON:</p> <p>10 Q. What competitive advantages, if any, does</p> <p>11 AdX have when competing against OpenX?</p> <p>12 MS. LEE: Objection to form.</p> <p>13 THE WITNESS: One would be the enormous</p> <p>14 amount of demand that it gets from being owned by</p> <p>15 Google. So it's getting proprietary access to</p> <p>16 Google demand.</p> <p>17 The other would be the knowledge that it</p> <p>18 gets from Google's ownership of the ad server and</p> <p>19 the ability for Google to use their knowledge of the</p> <p>20 ad server, their knowledge of bid prices, their</p> <p>21 knowledge of winning bid prices to inform AdX</p> <p>22 bidding strategy.</p> <p>23 BY MR. VERNON:</p> <p>24 Q. Can you explain -- one of the things you</p> <p>25 said was Google's ownership of the ad server gives</p>

DECLARATION UNDER PENALTY OF PERJURY

I hereby declare under penalty of perjury that the foregoing is my deposition under oath; that I have read same; and that I have made the corrections, additions, or changes to my answers that I deem necessary.

In witness thereof, I hereby subscribe my
name this day of , 2023.

JOHN GENTRY

1 COUNTY OF LOS ANGELES,)
)
2 STATE OF CALIFORNIA,)

I, Cody R. Knacke, Registered Professional Reporter, Certified Shorthand Reporter in and for the State of California, License No. 13691, hereby certify that the deponent was by me first duly sworn and the foregoing testimony was reported by me and was thereafter transcribed with computer-aided transcription; that the foregoing is a full, complete, and true record of said proceedings.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceedings and caption named or in any way interested in the outcome of the cause in said caption.

The dismantling, unsealing, or unbinding of the original transcript will render the reporter's certificate null and void.

In witness whereof, I have hereunto set my
hand this day: October 27, 2023.

C. K.

CODY R. KNACKE, RPR, CSR No. 13691

DEPONENT'S CHANGES OR CORRECTIONS

Note: If adding to your testimony, print the words you want to add. If deleting from your testimony, print the words you want to delete. Specify with "Add" or "Delete" and sign this form.

DEPOSITION OF: JOHN GENTRY

DATE OF DEPOSITION: OCTOBER 26, 2023

PAGE	LINE	CHANGE/ADD/DELETE
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Deponent's Signature _____ Date _____